

HOUSE BILL NO. 644

INTRODUCED BY M. LANGE

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING AIRPORT POLICE OFFICERS TO BECOME MEMBERS OF THE SHERIFFS' RETIREMENT SYSTEM; AMENDING SECTIONS 19-7-101, 19-7-301, 19-7-302, AND 19-7-402, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 19-7-101, MCA, is amended to read:

"19-7-101. Definitions. Unless the context requires otherwise, the following definitions apply in this chapter:

(1) "Airport police officer" means a person who is employed by a city or an airport authority to provide law enforcement services at an airport and who has authority to carry a weapon and make arrests.

~~(1)(a)~~(2)(a) "Compensation" means remuneration paid from funds controlled by an employer for the member's services or for time during which the member is excused from work because the member has taken compensatory leave, sick leave, annual leave, or a leave of absence before any pretax deductions allowed by state or federal law are made.

(b) Compensation does not include maintenance, allowances, and expenses.

~~(2)(3)~~ "Highest average compensation" means a member's highest average monthly compensation during any 36 consecutive months of membership service or, ~~in the event if~~ a member has not served at least 36 months, the total compensation earned divided by the number of months of service. Lump-sum payments for severance pay, including payment for compensatory leave, sick leave, and annual leave, paid to the member upon termination of employment may be used in the calculation of a retirement benefit only to the extent that they are used to replace, on a month-for-month basis, the normal compensation for a month or months included in the calculation of the highest average compensation. A lump-sum payment may not be added to a single month's compensation.

~~(3)(4)~~ "Investigator" means a person who is employed as a criminal investigator or as a gambling investigator for the department of justice.

~~(4)(5)~~ "Sheriff" means any elected or appointed county sheriff or undersheriff or any appointed, lawfully

1 trained, appropriately salaried, and regularly acting deputy sheriff with the requisite professional certification and
2 licensing."

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4 **Section 2.** Section 19-7-301, MCA, is amended to read:

5 **"19-7-301. Membership -- inactive vested members -- inactive nonvested members.** (1) (a) Except
6 as provided in subsection (1)(b), each sheriff ~~shall~~ must become a member of the sheriffs' retirement system.

7 (b) A sheriff who was a member of the public employees' retirement system on July 1, 1974, may
8 remain a public employees' retirement system member or elect to become a member of the sheriffs' retirement
9 system by filing a written election with the board at any time before retirement.

10 (2) (a) Except as provided in subsection (2)(b), an airport police officer must become a member of the
11 sheriffs' retirement system.

12 (b) An airport police officer who was a member of the public employees' retirement system on [the
13 effective date of this act] may remain in the public employees' retirement system or elect to become a member
14 of the sheriffs' retirement system by filing a written election with the board before May 1, 2006.

15 ~~(2)(a)~~ (3)(a) Except as provided in subsection ~~(2)(b)~~ (3)(b), an investigator ~~shall~~ must become a member
16 of the sheriffs' retirement system.

17 (b) An investigator who was a member of the public employees' retirement system on July 1, 1993, may
18 remain in the public employees' retirement system or elect to become a member of the sheriffs' retirement
19 system by filing a written election with the board at any time before retirement.

20 ~~(3)(4)~~ A member of the public employees' retirement system who begins employment in a position
21 covered by the sheriffs' retirement system may remain in the public employees' retirement system or may elect
22 to become a member of the sheriffs' retirement system by filing a written election with the board no later than
23 30 days after beginning the employment.

24 ~~(4)(5)~~ A sheriff, an airport police officer, or an investigator who elects to become a member of the
25 sheriffs' retirement system must be an active member as long as actively employed in an eligible capacity,
26 except as provided in 19-7-1101(2).

27 ~~(5)(6)~~ A member with at least 5 years of membership service who terminates service and does not take
28 a refund of the member's accumulated contributions is an inactive vested member and retains the right to
29 purchase service credit and to receive a retirement benefit under the provisions of this chapter.

30 ~~(6)(7)~~ A member with less than 5 years of membership service who terminates service and leaves the

member's accumulated contributions in the pension trust fund is an inactive nonvested member and is not eligible for any benefits from the retirement system. An inactive nonvested member is eligible only for a refund of the member's accumulated contributions."

Section 3. Section 19-7-302, MCA, is amended to read:

"19-7-302. Ineligibility for membership in public employees' retirement system. (1) After July 1, 1974, a sheriff may not become a member of the public employees' retirement system and the provisions of The Public Employees' Retirement System Act do not apply to sheriffs.

(2) After [the effective date of this act], an airport police officer is not eligible to become a member of the public employees' retirement system and the provisions of The Public Employees' Retirement System Act do not apply to airport police officers, except as provided in 19-7-301.

(2)(3) After July 1, 1993, an investigator is not eligible to become a member of the public employees' retirement system and the provisions of The Public Employees' Retirement System Act do not apply to investigators, except as provided in 19-7-301.

(3)(4) This chapter may not be construed to deny any sheriff or investigator any benefits accrued under provisions of the public employees' retirement system prior to membership in this retirement system."

Section 4. Section 19-7-402, MCA, is amended to read:

"19-7-402. Sources of money in fund. The following money must be paid to the board, which shall credit the payments to the pension trust fund:

- (1) all contributions by ~~the various counties~~ employers as required by this chapter;
- (2) all contributions by members as required by this chapter;
- (3) all interest on and increase of the investments and money under this chapter; and
- (4) any supplemental appropriation or revenue from a source or sources approved by the legislature or money received directly from the federal government for funding of law enforcement retirement systems."

NEW SECTION. **Section 5. Effective date.** [This act] is effective July 1, 2005.

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